

AUGUST 2007

Campaign	
Kristy van Herick Berkeley City Attorney's Office Dated: August 15, 2007 File Number I-07-097	<p>A general purpose committee, which spent all but 0.4 percent of its expenditures (during a recent 5-year period) on city-only related candidates or ballot measures, was found to be a "city" general purpose committee.</p>
Bill Leonard Board of Equalization Boardmember Dated: August 15, 2007 File Number A-07-122	<p>Officeholder contributions received by a member of the Board of Equalization under Section 85316(b) may be used to pay for the following:</p> <ul style="list-style-type: none"> • Travel (including that of the officeholder's spouse) to speak about California tax policy before partisan organizations such as local Republican groups. • A website featuring commentary on California public and tax policy. • Cellular or other telephone service, internet service, costs of computer supplies where the predominant use will be related to his office. • Service associated with producing and sending a weekly electronic newsletter dealing with public policy issues. <p>Officeholder contributions received under Section 85316(b) may not be used to pay for the following:</p> <ul style="list-style-type: none"> • Travel to California Republican Party semi-annual conventions. • Coffee service for attendees to California Republican Party conventions. • Storage of records associated with campaigns for prior elections. • Costs of producing, framing, and sending awards presented in special recognition of service by taxpayers.
Jeff Denham California State Senate Dated August 20, 2007 File Number A-07-140	<p>While subject to the committee naming conventions of Regulation 18531.5(c)(1), an official's elected state officer recall committee established under Section 85315 is not subject to the committee name identification requirements of Section 84504. Moreover, the committee must identify the name of the financial institution where the committee has established an account and the account number on the committee's statement of organization.</p>

Nicole G. Paquette Animal Protection Institute Dated: August 27, 2007 File Number A-07-124	<p>An attorney representing a state ballot measure committee sought advice regarding whether it may use the committee's remaining funds in its primarily formed ballot measure committee account for activities as a general purpose committee at the conclusion of litigation it funded. The committee was advised that there are no restrictions in the Act preventing it from using funds remaining in its primarily formed ballot measure committee account after the conclusion of litigation to finance activities as a general purpose committee so long as the committee first amends its Statement of Organization to reflect that change.</p>
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Conflicts of Interest	
Howard H. Scott City Attorney, City of Glendale Dated: August 22, 2007 File Numbers I-07-109 & I 07-117	<p>A city councilmember may not participate in a vote to appoint himself to another local government agency that pays members a stipend of \$250 or more in a 12-month period. However, he may appear in the same manner as any other member of the general public before the city council in the course of its prescribed governmental function to represent his personal interests as long as he makes it clear that he is not acting in an official capacity and that he is representing his own personal interests. With respect to a city council vote of "support" for his appointment to a different local government agency where the actual appointment is not made by the city council, he may not participate in the city council vote if it is reasonably foreseeable that the vote of support will result in his ultimate appointment.</p>
Tom McCabe Planning Commissioner, City of Encinitas Dated: August 2, 2007 File Number I-07-111	<p>City Planning Commissioner sought follow up advice regarding whether he may participate in ad hoc subcommittee review of the city's downtown draft specific plan, when he has a source of income that owns property in the specific plan area. Requestor contended that the ad hoc subcommittee discussions, review, and editing of the Draft Specific Plan may be "segmented" or broken down into a series of decisions that are separate from the decisions in which he has a conflict. Requestor also contended that the public generally exception should allow him to participate in most of the editing and discussion of the Draft Specific Plan. Requestor was advised that there were insufficient facts to determine whether his economic interest will be affected in substantially the same manner as the public generally. However, the facts he provided suggest that it is unlikely that his economic interest, because of the size and scope of its commercial real property holdings in the specific plan area, will be affected in substantially the same manner as the applicable significant segment. With regard to the segmentation question, requestor must analyze each aspect of the Draft Specific Plan decisions</p>

	separately using a reasonable and objective method to determine whether the decision will have a material financial effect on his economic interest. If there are decisions that will have no financial effect on his economic interest, then the decisions may be “segmented,” and he may participate in these individual decisions under certain circumstances.
Debbie Giordano Milpitas City Council Dated: August 15, 2007 File Number A-07-118	Milpitas City Attorney requests advice on behalf of city council member who wishes to accept a position as a volunteer host or co-host of a community broadcast television show. Staff advised that because the position is unpaid, the councilmember has no economic interest that is regulated by the Act.
Pete McCracken Porterville City Council Dated: August 15, 2007 File Number A-07-121	Porterville City Attorney requests advice on behalf of city council member who has a real property interest in a redevelopment area. Staff advised that the conflict-of-interest provisions in the Act prevent the councilmember from making some of the decisions, but he may participate in others.
Ed Lacroix CA Department of Motor Vehicles Dated: August 21, 2007 File Number A-07-123	A DMV data processing manager does not violate the Act’s conflict-of-interest provisions by operating a private business selling software applications he has developed to third parties who may resell them to state agencies because he is not making, participating in making or influencing any governmental decisions. Requester was advised that other laws outside the Act, may apply.
Mike Touhey, Sheri Lane, Steve Herfert, Shelley Sanderson, Andrew Pasmant City of West Covina Dated: August 15, 2007 File Number A-07-132	<p>1. City councilmembers and a city manager who are participants in the city’s deferred compensation plan may participate in a decision for the city to pay the legal defense fees of the registered representative of the plan administrator without violating the Act’s conflict-of-interest provisions because the decision does not involve any of their economic interests.</p> <p>2. A city councilmember who paid her sister’s initial premium on a life insurance policy purchased through the insurance company’s registered representative may vote on the city’s payment of the representative’s legal defense fees because the decision does not involve any of her economic interests.</p>
Robert A. Halpin Planner II, Tehama County Planning Department Dated: August 28, 2007 File Number A-070133	This letter analyzes the conflict-of-interest rules as they pertain to income to a public official in the form of salary paid to his spouse where the spouse's employer is indirectly involved in a government decision.
William Dalton City of Garden Grove Dated: August 28, 2007 File Number A-07-136	Due to his ownership of real property within 500 feet of property that is the subject of a decision to approve a parcel map, a mayor has a conflict of interest in that decision. Because approval of the parcel map is one decision in a series whose intended outcome is construction of a large retail “supercenter,” the Mayor may not participate in any of the other decisions in the series, because these decisions are

	inextricably interrelated one to another.
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Gift	
James K. Burns Dated: August 17, 2007 File Number I-07-108	<p>The requestor is a private individual who asks whether, under Regulation 18943(a)(4), fishing trips taken on a public official's boat can act as paying down or reimbursement of any gift received by the public official when the public official takes a fishing trip on the requestor's fishing boat if the trips are within 30 days of each other. Staff advised that in these circumstances paying down or reimbursement of the gift must be made in cash to avoid the consequences of violating the Act's gift limit provisions.</p>
John R. Poyner Colusa County District Attorney Dated: August 16, 2007 File Number A-07-130	<p>A local district attorney is advised that discounted interest rates and fees on home loans offered to any employee of county law enforcement agencies including the district attorney's office, the sheriff's office, and probation departments are not gifts under the Act.</p>

Honoraria	
Roy Ashburn State Legislature (Senate) Dated: August 23, 2007 File Number A-07-119	<p>Senator requested information regarding the honoraria provisions of the Act. He was approached to host a talk show that would be broadcast to the communities in his district. Staff advised that hosting a radio show is not a "speech" under the Act, and therefore not prohibited by the ban on accepting honoraria. This letter changes the staff's analysis of this issue by recapturing the Commission's initial understanding that the definition of "speech given" was not broad enough to include hosting a talk show.</p> <p>Superseded Letters:</p> <p>This letter supersedes the following to the extent they conclude that hosting a radio talk show is a "speech."</p> <p><i>Giovati</i> Advice Letter, I-06-221 <i>Spitzer</i> Advice Letter, A-06-029</p>

Lobbying	
Anthony Williams Wada, Williams, and the California State Bar Dated: August 27, 2007 File Number A-07-128	<p>Lobbyist requests advice regarding whether his lobbying firm should report the State Bar of California as a client. Staff advised that because the State Bar makes no payments to the lobbying firm and because the lobbyist is a part-time, designated employee of the State Bar, the lobbying firm is not required to report the State Bar as a client.</p> <p>Notes: (See 07-060 for similar advice to the State Bar.)</p>

Section 84308	
Stephen E. Miklos Sacramento County Local Agency Formation Committee Dated: August 8, 2007 File Number A-07-125	A LAFCO boardmember who returned contributions within 30 days of learning that the contributors were participants or agents of participants in an upcoming proceeding was able to participate in the proceeding under Section 84308(c), where the circumstances did not indicate that the boardmember “should have known” that the contributors had a financial interest in the proceeding.

August 2007
Juanita G. Lira